

**STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of:

**EhomeCredit Corp.
211 Station Road
Mineola, NY 11501**

Enforcement Case No. 08-5521

&

**1st Capital Home Mortgage
211 Station Road
Mineola, NY 11501**

Respondent.

Issued and entered,
this January 20, 2009,
by Stephen R. Hilker,
Chief Deputy Commissioner

FINAL ORDER TO CEASE AND DESIST

I.

Findings of Fact

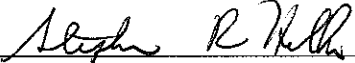
1. On December 9, 2008, the Chief Deputy Commissioner issued an Order to Cease and Desist pursuant to Section 16 of the Mortgage Brokers, Lenders, and Servicers Licensing Act, MCL 445.1666. Said Order, served on Respondent via certified mail, advised Respondent that failure to request a hearing within 30 days would result in the order becoming final.

2. Respondent failed to request a hearing within 30 days as required by statute.

II.

Final Order to Cease and Desist

Therefore, a Final Order to Cease and Desist pursuant to MCL 445.1666 is hereby entered.



Stephen R. Hilker
Chief Deputy Commissioner

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211 Station Road
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Respondents

_____ /

Issued and Entered,
On 12/09/08, 2008,
by Stephen R. Hilker,
Chief Deputy Commissioner

ORDER TO CEASE AND DESIST

and

NOTICE OF OPPORTUNITY FOR HEARING

The Commissioner of the Office of Financial and Insurance Regulation ("OFIR"), pursuant to his statutory authority and responsibility to administer and enforce the Mortgage Brokers, Lenders, and Servicers Licensing Act ("MBLSLA"), MCL 445.1651 *et seq.*, hereby orders 1st Capital Home Mortgage and EhomeCredit Corp. ("Respondents"), to immediately CEASE AND DESIST from conducting business as a mortgage broker without first obtaining a

license or registering under the MBLSLA. Respondents are also notified of an opportunity to request a hearing on this matter.

I.

ORDER TO CEASE AND DESIST

1. The authority to issue the Cease and Desist Order is found in Section 16(1) of the MBLSLA, MCL 445.1666(1), which states:

After an investigation has been conducted pursuant to section 13, and prior to holding the hearing under section 18, the commissioner may order a person to cease and desist from a violation of this act or a rule promulgated or an order issued under this act.

2. A review of OFIR's records reveals that Respondents are neither licensed nor registered under the MBLSLA.

3. Section 2 of the MBLSLA, MCL 445.1652, prohibits a person from acting as a mortgage broker, mortgage lender, or mortgage servicer without first obtaining a license or registering under the MBLSLA unless that person is otherwise exempt from the Act.

4. A "mortgage broker" is defined by Section 1a(o) of the MBLSLA, MCL 445.1651a(o), as follows:

"Mortgage broker" means a person who, directly or indirectly, does 1 or both of the following:

- (i) Serves or offers to serve as an agent for a person in an attempt to obtain a mortgage loan.
- (ii) Serves or offers to serve as an agent for a person who makes or offers to make mortgage loans.

5. OFIR staff received a complaint from Francis Hall (complainant) indicating that Respondents offered to assist him in obtaining a mortgage loan. In fact, Respondents provided the complainant with three mortgage loan programs that may have been suitable for the

complainant from various lenders. As previously mentioned, Respondents are neither licensed nor registered under the MBLSLA.

6. Based on the foregoing, Respondents have conducted mortgage business without the requisite license or registration certificate required under Section 2 of the MBLSLA. Section 2 of the MBLSA prohibits a person from acting as a mortgage broker unless the person is licensed or registered in accordance with the Act or meets any of the exceptions enumerated therein. The facts above demonstrate that Respondents acted as mortgage brokers when they offered the complainant three mortgage loan programs from various lenders. Consequently, Respondents are in violation of Section 2 of the MBLSLA.

7. Based upon the violation of the MBLSLA, Respondents may be subject to all penalties and fines that may be imposed against a licensee or registrant. Section 1a(l) of the MBLSLA, MCL 445.1651a(l), provides:

'Licensee' means a person licensed or required to be licensed under this act.

Section 29 of the MBLSLA, MCL 445.1679, provides, in pertinent part:

(1) An owner, partner, member, officer, director, trustee, employee, agent, broker, or other person, or a representative acting on the authority of that person that willfully or intentionally does any of the following is guilty of a misdemeanor punishable by a fine of not more than \$15,000.00 or imprisonment for not more than 1 year, or both:

(a) Engages in this state in the business of a mortgage broker, mortgage lender, or mortgage servicer without a license or registration required under this act or acts as a loan officer in this state without a loan officer registration required under this act.

(2) Subject to subsections (4) and (5), if the commissioner finds that a licensee, registrant, or loan officer registrant has violated this act or the

rules promulgated under this act, the commissioner may do 1 or more of the following:

(a) Assess a civil fine against the licensee, registrant, or loan officer registrant or a person who controls the licensee, registrant, or loan officer registrant of not more than \$1,000.00 for each violation, except that the licensee, registrant, or loan officer registrant or the person shall not be fined more than \$10,000.00 for a transaction resulting in more than 1 violation, plus the costs of investigation.

(b) Suspend or revoke a license, registration, or loan officer registration or refuse to issue a license or renew a license, registration, or loan officer registration.

(c) Require the licensee, registrant, or loan officer registrant or a person who controls the licensee, registrant, or loan officer registrant to make restitution to each injured individual, if the commissioner finds that the violation of this act or a rule promulgated under this act resulted in an injury to 1 or more individuals.

(3) A civil fine assessed under subsection (2) may be sued for and recovered by and in the name of the commissioner and may be collected and enforced by summary proceedings by the attorney general. Each individual injured by a violation of this act or a rule shall constitute a separate violation. In determining under subsection (2) the amount of a fine, whether to suspend or revoke a license, registration, or loan officer registration, whether to refuse to issue or renew a license or loan officer registration, or the amount of restitution, the commissioner shall consider the extent to which the violation was a knowing and willful violation, the extent of the injury suffered because of the violation, the corrective action taken by the licensee, registrant, or loan officer registrant to ensure that the violation will not be repeated, and the record of the licensee, registrant, or loan officer registrant in complying with this act. Any proceedings under this subsection are subject to the procedures of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Section 16(3) of the MBLSLA, MCL 445.1666(3), provides, in part:

A violation of a cease and desist order issued under this act is a violation of this act and the commissioner or the attorney general may take any action permitted under this act, including making application to the Ingham county circuit court to restrain and enjoin, temporarily or permanently, or both, a person from further violating the cease and desist order.

It is therefore **ORDERED** that Respondents EhomeCredit Corp. and 1st Capital Home Mortgage shall immediately CEASE AND DESIST from conducting any business regulated by the MBLSLA.

The Chief Deputy Commissioner of OFIR specifically retains jurisdiction of the matter contained herein to issue such further order or orders as he may deem just, necessary, or appropriate so as to assure compliance with the law and protect the interest of the public.

II.

NOTICE OF OPPORTUNITY FOR HEARING


Section 16(2) of the MBLSLA, MCL 445.1666(2), provides:

A person ordered to cease and desist shall be entitled to a hearing before the commissioner if a written request for a hearing is filed with the commissioner not more than 30 days after the effective date of the order. A hearing shall be conducted in accordance with the provisions of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

Should Respondents wish to request a hearing relating to the Chief Deputy Commissioner's Order to Cease and Desist, a hearing must be requested in writing within 30 days of the issuance of this Order. The request for a hearing must be addressed to:

Dawn Kobus, Hearings Coordinator
Office of Financial and Insurance Regulation
Ottawa State Office Building, Third Floor
611 West Ottawa Street
Lansing, Michigan 48933

Please be advised that any statements made are voluntary and may be used in any proceeding that may be held. If a hearing is requested, Respondents have the right at their expense to legal representation at the hearing. A licensed attorney must represent Respondents that are corporations or limited liability companies.



Stephen R. Hilker,
Chief Deputy Commissioner